

¹ *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Report and Order and Third Further Notice of Proposed Rulemaking, 30 FCC Recd 12764 ¶ 268 (2015) (the “*Second Report and Order*”).

2016, to December 31, 2016. Accordingly, since the OMB approval didn't occur until early 2017, ICS providers have had a reasonable expectation that reporting in compliance with Rule 64.6060 would not begin until April 1, 2018, and would cover the time period from January 1 – December 31, 2017.

On March 2, 2017, the Wireline Competition Bureau, on its own motion, issued a Public Notice stating that the first annual reports are due June 1, 2017, for calendar year 2016.² This Public Notice conflicts with Paragraph 268 and shortens the time for reporting rather than extending it. In its motion, Securus requests that the Commission issue an order that sets the first reporting deadline at April 1, 2018, consistent with Paragraph 268, or that at a minimum gives ICS providers until September 1, 2017, to submit the reports required by Rule 64.6060. CenturyLink supports this motion.

Five parties or groups have filed comments regarding the Securus Motion. ICSolutions, Global Tel*Link Corporation and PayTel Communications, Inc. have filed comments supporting the Securus Motion. CenturyLink agrees with their arguments for granting the Securus Motion. The Wright Petitioners, Citizens for Rehabilitation of Errants and Prison Policy Initiative (collectively, the “Wright Petitioners”) and the Human Rights Defense Center (“HRDC”) have filed comments in opposition to the Securus Motion. Their arguments do not justify denial of the Motion.

² *Wireline Competition Bureau Announces Due Dates for Inmate Calling Services Information Collections and Consumer Disclosure Requirements*, WC Docket No. 12-375, DA 17-209 (Mar. 2, 2017).

REPLY COMMENTS

The Wright Petitioners make primarily three arguments in opposition to the Securus Motion. First, they claim that ICS providers have been required pursuant to Rule 64.6110 to disclose their interstate, intrastate, and international rates and Ancillary Service Charges to consumers since March 1, 2017. (Wright Petitioners Opposition³, p. 1). Next, they claim based on reports from a handful of prisons and county jails that ICS providers already prepare monthly reports for each correctional facility which include (i) the minutes of use based on the type of call and/or video visitation occurrence, and (ii) the site commission payment information. (Wright Petitioners Opposition, p. 2). Finally, the Wright Petitioners assert that the DC Circuit Court of Appeals denied requests to stay Rule 64.6060. *Id.* Based on these arguments, the Wright Petitioners claim that compiling the data required by Rule 64.6060 is not likely to cause any great hardship on ICS providers and that the Securus Motion should be denied.

The Wright Petitioners' arguments are erroneous for three reasons. First, their claims about the availability of information only address four of the seven categories of information required by Rule 64.6060. The Wright Petitioners do not assert that the information required by Rule 64.6060 subsections (a)(5) to (a)(7) is available. This is a particularly significant omission because until the OMB approved the Rule 64.6060 reporting requirements on January 9, 2017, there was no obligation to track the number of TTY-based Inmate Calling Services calls provided per facility during the reporting period (Rule 64.6060(a)(5)), the number of dropped calls the reporting Provider experienced with TTY-based calls (Rule 64.6060(a)(6)) or the number of complaints that the reporting Provider received related to e.g., dropped calls, poor call quality and the number of incidences of each by TTY and TRS users. (Rule 64.6060(a)(7)).

³ Wright Petitioners Opposition to Securus Technologies, Inc. Motion for Extension of Time, WC Docket No. 12-375, filed Mar. 28, 2017 ("Wright Petitioners' Opposition").

Second, even if all of the information required by Rule 64.6060 is available for 2016, it is compiling the information in the format required by the FCC that is the burdensome aspect of Rule 64.6060. ICS providers provide ICS to jails and prisons pursuant to individually negotiated contracts that contain reporting requirements specified by the individual jail or prison. Exhibit 1 to the Wright Petitioners' opposition illustrates a variety of reports prepared by individual ICS providers with different content for specific correctional facilities. The task of compiling the specific information required by Rule 64.6060 in the format required by the FCC has been and will continue to be complex and time-consuming.

Third, the refusal of the DC Circuit Court of Appeals to stay Rule 64.6060 has no bearing on when the Rule 64.6060 reporting requirements begin. The DC Circuit did not explain its reasons for denying the stay of Rule 64.6060. The DC Circuit may have believed based on Paragraph 268 of the *Second Report and Order* that Rule 64.6060 would not become effective until April 1st of the year after publication of OMB approval, and that there was no imminent need for a stay. In any event, the DC Circuit certainly did not make a finding as to when Rule 64.6060 would become effective, and thus, the Wright Petitioners' reliance on the DC Circuit's stay decision is misplaced.

HRDC opposes the Securus Motion based on its claim that it has in the past had to spend great efforts to get the information required by Rule 64.6060 through other means. According to the HRDC, Securus itself proposed reporting requirements in the proposal it made to the Commission with Global Tel*Link and Telmate, LLC. However, HRDC does not respond to the reasons given by Securus for an extension. HRDC does not dispute that Paragraph 268 of the *Second Report and Order* specifies that Rule 64.6060's reporting obligations begin in the year after Publication of OMB approval in the Federal Register. HRDC does not dispute that the

Second Report and Order is on appeal or that the pending appeal may eliminate all or a portion of the reporting requirements. And HRDC does not dispute that it is burdensome for ICS providers to assemble the information required by Rule 64.6060 in the format required by the FCC. In short, HRDC has not justified denial of the Securus Motion.

CONCLUSION

For the foregoing reasons, the Commission should grant the Securus Motion for Extension and reaffirm that the reporting required by Rule 64.6060 is not due to until April 1, 2018. At a minimum, given the enormous task of complying with Rule 64.6060, the Commission should give ICS providers until September 1, 2017, to submit their reports.

Respectfully submitted,

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April 4, 2017